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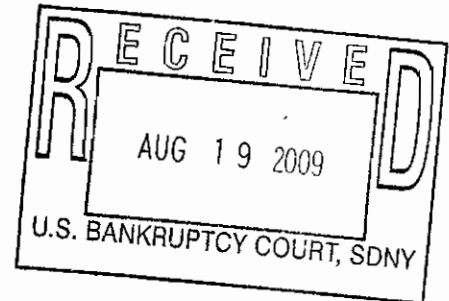
**JOINTLY ADMINISTERED  
CHAPTER 11 CASE No. 0950026**

Amended 8/14/2009

**United States Bankruptcy Court  
Southern District of New York**

in re

**General Motors Corp., et al., Debtors**



**DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

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Exhibit: B part 1 income inequality  
part 2 mortgages rising pg4 (top)  
Exhibit: C chart pg 9 figr. 5  
Exhibit: D Fed- dubious mortgage practices  
Exhibit: E Title 29 Subtitle A 1303  
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Exhibit: K Title 29 Subtitle D 1363  
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Exhibit: M Title 29 Subtitle B 1054  
Exhibit: N Title 12 1828  
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Exhibit: P Glass-Steagall Act repealed  
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Exhibit: W history of depression cycles in the United States  
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Exhibit: Z1 sale approved  
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Exhibit: Z10 Hearing before the H. Comm. on Fin. Servs. Declaration of  
Todd A. Gluckman in the support of motion to withdraw  
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Exhibit: Z11 reducing debt obligations/brings wages and benefits down to foreign  
Exhibit: Z12 City of New York v. Exxon Corp. 932 F. 2d cir. 1991  
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Exhibit: Z41 12 U.S.C. 5218

Exhibit: Z42 31 CFR 31.201

Exhibit: Z43 31 CFR 31.214

Exhibit: Z44 \$150 billion in pork pg 4, pg 5

Exhibit: Z45 Bailout pork

Items are: Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z1, Z2, Z3, Z4, Z5, Z6, Z7, Z8, Z9, Z10, Z11, Z12, Z13, Z14, Z15, Z16, Z17, Z18, Z19, Z20, Z21, Z22, Z23, Z24, Z25, Z26, Z27, Z28, Z29, Z30, Z31, Z32, Z33, Z34, Z35, Z36, Z37, Z38, Z39, Z40, Z41, Z42, Z43, Z44, Z45.

On July 5, 2009 the Honorable Robert E. Gerber approved the sale of GM in a 363 Transaction. Any Quotes from this Opinion will be in [*brackets underlined and italicized*]. Free trader is defined as: any individual, who sees Free Trade as the ultimate economic good and its importance, supersedes any issues of sovereignty. I am filing Pro Se in this appeal in TARP(s) constitutionality, which causes this GM sale and the use of TARP unconstitutionally, in this sale. The Purchaser is the U.S. Treasury, from now on will be referred to as the Treasury (UST) or the Executive Branch (EB). In this Appeal the EB will be using one of the most prestigious law firms in the U.S. paid for by taxpayer dollars. In essence I am paying for the argument against me.

### **Statement of Issues**

Then this sale approved in July 2009, demanded by the UST that all Old GM be sold, wherein lies the collateral of my pension liability. Also the UST refuses to pay me in lump sum for my earned (30 years of service), accrued, pension. See Exhibits **S, R, Z6, Z7**. With the collateral of my pension torn away here in this sale, my pension is in great jeopardy, relying only on the success of New GM, and the auto experts at the UST. This violates the **Fifth Amendment, and the Bill of Attainder**.

Without TARP money this sale would never have happened, there were other legal and Constitutional ways to save Old GM. A U.S. Government contract that would be much like a Military Contract, requiring a certain number of vehicles, at certain date(s), meeting certain specifications. This contract would be approved by Congress, and thereby would meet the requirements of **Separation of Power**, and would comply with **Article I: Section 8, and Section 9, also Article II Section 3**, and would have met real **Checks and Balances**. If the Judicial, had been brought cause earlier, and defined one word in the **First Amendment**, the word "petition" these other violations of the Constitution would never have occurred.

**The How's and why' of Tarp use:**

1). Free Trade, in the last 30 years became the economic goal of the EB. Free trade agreements and most favored nation status were traded off, to Communist and other countries that did/do not respect human rights, for cheap labor. This met huge profits for 1% of the United States population, but a drop in income for 80% of the U.S. citizens See Exhibits: B part1, C. This "free" trade was/is undermining the vast majority of U. S. citizens. This 80% does petition the Government, but the paid lobbyist, for the 1% override the majority, and through there connections, only they are heard.

2). During this 30 years the U.S. economy thus made a transformation, from a manufacturing economy to a service economy, consumerism grew as a factor in Gross Domestic Product (GDP) to 70%. This U.S. consumer spending is the fuel of free trade. Thus, free traders especially in times of crisis, encourage U.S. citizens to keep spending. During 911 President Bush made such a pronouncement. If a country doesn't have its own strong manufacturing base it is a vulnerable nation, and up until these free trader demands of the last 30 years, the U.S. has always maintained the strongest manufacturing base, and could boast a "pull yourself up by your boot straps" economic promise. This TARP is a bill that is counter to building a strong manufacturing base in the U.S., TARP freely gives equity to the "free" trade financial sector, with no strings attached, only Congressional oversight. See **Exhibit Z 2, 3, 17, 18**. While when used in the U.S. manufacturing sector Tarp use, applied only through the UST:

a). demands; no lump sum payment for my pension, while selling off the collateral thereof; [pg 69 the U.S. Treasury—triaging its ability to undertake obligations, and trying to make New GM as lean and as viable as possible—allocated its available money to spend it only where necessary to build a new and stronger GM.<sup>120</sup> With that by way of backdrop, the Court considers the legal issues.]

b). the lowering of U.S. manufacturing workers wages to be; [pg10 (ii) reduce its total compensation to U.S. employees so that by no later than December 31, 2009, such compensation would be competitive with Nissan, Toyota, or Honda in the U.S.;].

c). Also the UST,( in regards to U.S. manufacturing workers), demands: [ pg 10 (iv) apply, by December 31, 2009, work rules for U.S. employees in a manner that would be competitive with the work rules for employees of Nissan, Toyota, or Honda in the U.S.;].

**Clearly a double standard of the use of this TARP by UST exists;**

a). Over \$300 billion to banks, insurance , mortgage, and other financial companies, given as equity, with **no strings attached**, the financiers, and profiteers, of free trade. These beneficiary's of Tarp paid out billions of taxpayer dollars to themselves in

bonuses. See Exhibit(s) Z2, Z3, Z17. But these companies, were considered by the EB to be essential to free trade, they were all bankrupt, and filled with over paid employees [ pg 9 the Treasury Prepetition Loan was intended to be, and was, a loan and not a contribution of equity. As contrasted with other TARP transactions that involved the U.S. Treasury making direct investments in troubled companies in return for common or preferred equity.]

b). The TARP money as used for GM, was given **with strings attached**, and with a plan to steer GM into a 363 Transaction whereby the law could be used as a tool.

1). The Loan Agreement [pg 11 The Treasury Prepetition Loan agreement (whose formal name was "Loan and Security Agreement," or "LSA")], made several demands:

[ pg (i) reduce its approximately \$27 billion in unsecured public debt by no less than two-thirds;

(ii) reduce its total compensation to U.S. employees so that by no later than December 31, 2009, such compensation would be competitive with Nissan, Toyota, or Honda in the U.S.;

(iii) eliminate compensation or benefits to employees who had been discharged, furloughed, or idled, other than customary severance pay;

(iv) apply, by December 31, 2009, work rules for U.S. employees in a manner that would be competitive with the work rules for employees of Nissan, Toyota, or Honda in the U.S.;

(v) make at least half of the \$20 billion contribution that GM was obligated to make to a VEBA Trust for UAW retirees ("VEBA Trust") in the form of common stock, rather than cash.]

2). This LSA loan agreement, provided that, this loan **could be called in within 30 days, as determined by President Obama**; [ pg 11 if, by March 31, 2009, the President's designee hadn't issued a certification that GM had taken all steps necessary to achieve long-term viability, then the loans due to Treasury would become due and payable 30 days thereafter. And on March 30, the President announced that the viability plan proposed by GM was not satisfactory]

3). Also fore planning before the TARP, LSA loan was "given" included; [pg 24 The Auto Task Force talked to dozens of experts, industry consultants, people who had observed General Motors for decades, management, and people who were well versed in the bankruptcy process as part of its planning and work on this matter]

**A good faith purchaser would not steer a company into a bankruptcy process for any purposes, such as tearing away of the collateral of U.S. workers pensions without just payment, and controlling wages, work rules, and benefits; These takeaways can only be by way of the Legislative Branch, and even then would be very questionable.**

There was zero viability of any payback, of TARP, taxpayer money, being utilized in this loan to GM upon their signing this agreement, on December 31, 2008.. [ pg 8, 9, the U.S. Treasury and GM entered into a term loan agreement on December 31, 2008 (the "Treasury Prepetition Loan"), that provided GM up to \$13.4 billion in financing on a senior secured basis. Under that facility, GM immediately borrowed \$4 billion, followed by \$5.4 billion less than a month later, and the remaining \$4 billion on February 17, 2009.]. GM at this time was losing in excess of \$2 billion a month.

This LSA loan required that: [ pg 10, (v) make at least half of the \$20 billion contribution that GM was obligated to make to a VEBA Trust for UAW retirees ("VEBA Trust") in the form of common stock, rather than cash.] and also, [ pg 10 (i) reduce its approximately \$27 billion in unsecured public debt by no less than two-thirds;].

Without these, clearly outlined, and preplanned, (by bankruptcy experts) objectives in this loan agreement, that clearly contain, free trade objectives, there would not have been a loan by UST to GM. How could this \$13.4 billion loan possibly have been paid back? The loan was called in less than 45 days at the whim of President Obama. A little addition, (see above quotes); at least **\$10 billion (VEBA), plus, at least \$17.8 billion (in unsecured debt), totaling at least, \$27.8 billion plus making payments on the \$13.4 billion.** Astounding, a company losing \$2 billion a month, in a steep recession/depression could not, possibly pay back such an amount, even in GM's best days, they could not have met these LSA loan agreement requirements. There were clearly intentions by the EB to use this as an opportunity to attack the U.S. manufacturing workers, the U.S. retirees, the U.S. workers benefits, wages, and work rules.

The main objective of this loan was to clearly, (under the guise of helping GM and the economy), to tear away the collateral of my pension without just payment, and to cut U.S. workers wages, and benefits, by "steering" GM into a 363 Transaction [ pg 12, The President explained: What I'm talking about is using our existing legal structure as a tool that, with the backing of the U.S. Government, can make it easier for General Motors . . . to quickly clear away old debts that are weighing [it] down so that [it] can get back on [its] feet and onto a path to success;] whereby the UST, and thus the EB, could tear away the collateral of my accrued, earned, pension in the sale of Old GM assets, and also to "flatten the earth" in respect to wage and benefits for U.S. manufacturing workers. This will lead to a further decline in income for 80% of the U.S. citizens. Also, at any time the EB, the UST, may decide to steer New GM into another bankruptcy, and leave me with possibly no, pension. See **Exhibit Z 7.** The U.S. Treasury may decide to sell the New GM, (the U.S. Treasury has controlling interest) and can sell at anytime to anyone, including a foreign Communist country such as China, for example.

**This use of this unconstitutional TARP in this sale was not the only plan the U.S. Government could have offered. It is very unlikely that when Tarp was passed, not one Senator, or Congressman, could have imagined that this taxpayer money would be used as a weapon, to force a sale, set wages, work rules, and use law as a tool to tear away citizens pension collateral.**

A Constitutional, method, should have been utilized, for GM(s) rescue, passed by the Congress with Separation of Power, and with accountability, and receipts, and no Bill of Attainder. Thus, fulfilling the Constitutional requirement that only the Legislative Branch has; there duty to make law, and take money out of the people's purse.

The solution offered GM by the UST was the worst of all, demanding of its manufacturing workers and retirees, cuts in wages work rules and the tearing away of the collateral of many Thousands of workers pensions. This sale is an "all in" gamble by the EB that relies on the success of New GM, and if there is not success the workers and retirees stand to lose everything they have worked for.

Instead of using the unconstitutional TARP money the government, could/should have offered a government contract. With Congressional approval, to forward purchase for example; 2,000,000 electric vehicles with the "green requirements" they so desire, such as 100 to 200 miles per plug in. This contract with Separation of Power (strings attached), and checks and balances (not oversight), would not be unlike a defense contract, to be filled in X number of years. The U.S. Government would pre pay for some of the cost, allowing the Old GM, immediate cash, to sustain them through this economic downturn. These vehicles would be supplying the U.S. Post Office and all other non security related government agencies. GM stock would have rocketed up, thus providing relief in GM's ability to attain credit in the markets. If this were done, and it still can be if this sale were stopped, then almost every party would win; the taxpayer would get something for their money, Old GM would be stabilized and on the road to recovery, and the retirees would not be harmed by unconstitutional, illegal, government actions. The only loser would have been the free traders (the 1% of highest income earners). The Government would be leading by example in its quest for a "greener United States". The electric car would quickly trickle down to be utilized by state, and local governments. The question becomes why this wasn't done. It becomes clear that the free traders wanted to level the wages and benefits of U.S. workers, thru the use of TARP, to steer GM, through the use of the LSA loan, to a 363 Transaction. This is not a "good faith" purchaser.

#### **Was there any other Purchaser?**

It is very clear in the Opinion of the Honorable Robert E. Gerber, July 5, 2009, that there was not any other purchaser: [pg 8, At the time that the U.S. Treasury first extended credit to GM, there was absolutely no other source of financing available.] [pg 9, At the time this loan was made, GM was in very weak financial condition, and the loan was made under much better terms than could be obtained from any commercial lender—if



any lender could have been found at all.] [pg 14, *Importantly, the DIP financing to be furnished by the U.S. Treasury and EDC is the only financing that is available to GM.*]  
[pg 15, *The Court finds this hardly surprising. Only the U.S. and Canadian Governmental authorities were prepared to invest in GM*] [pg 15, *the only entity that has stepped forward to make such a purchase—is the U.S. Treasury sponsored Purchaser*] ]  
pg 23, *There are no merger partners, acquirers, or investors willing and able to acquire GM's business. Other than the U.S. Treasury and EDC, there are no lenders willing and able to finance GM's continued operations.* [pg 48, *that GM could not obtain financing from outside lending institutions*] [pg 13, *That would enable GM to implement a transaction under which substantially all GM's assets would be purchased by a Treasury-sponsored purchaser (subject to any higher or better offer), in an expedited process under section 363 of the Code.*]. **Any, argument to the contrary, would at best be disingenuous.** Clearly there was no other buyer and any (what, if) argument, should not be heard. The UST was allowed under Bankruptcy Law to use the law as a tool, to tear away the collateral of my pension, by its demand of the sale of Old GM, and not pay me a Lump Sum Payment, (just compensation).

### **The beginnings of TARP**

A, housing bubble, was created, caused by lack of regulation, by the Legislative Branch, and lack of oversight by the Executive Branch, and poor judgment in controlling interest rates by the Federal Reserve Board. See **Exhibit D, Z 8**. In September 2008, it burst, causing an implosion of U.S. financial institutions who manipulated through financial instruments, great leveraging of these mortgages. On September 19, 2008 then Treasury Secretary Henry Paulson (in 2006 he was CEO of Goldman Sacs) brought a three page proposal, titled; Legislative Proposal for Treasury Authority to Purchase Mortgage-Related Assets to Congress asking that he receive \$700 billion dollars to solve this mortgage asset problem. Under Section 8 of his proposal is stated: **“and may not be reviewed by any court of law or any agency”**. This is an insult to our Constitution, Congress, Judicial, and to the U.S. citizens of whose money he requested. This Section 8 statement makes it clear, to anyone who didn't already know, that these free traders “roll” by another Constitution, not the U.S. Constitution.

At this time U.S. citizens petitioned their Government, they called, wrote, and emailed their representatives, actually shutting down the Congressional web site, I was one of them, and saw on the Congressional Website screen the message: Due to the unusually high volume, our site can not handle the volume, Please try again later. Still the majority was muffled.

The original Paulson proposal then became H.R. 3997. This was rejected via a vote in the House of Representatives on September 29, 2008. The paid lobbyist then got involved, they added \$150 billion in pork to change the vote, this, is astonishing! Almost, 1% of U.S. GDP added in pork! See **Exhibit Z 44, Z45**. The Bill went to the Senate and was amended to H.R. 1424. The House of Representatives voted on and approved it October 3, 2008. Then President Bush signed the Bill into law within hours

of its enactment, creating the \$700 billion Troubled Assets Relief Program, this is codified at 12 U.S.C.5201.

### **The Argument**

The passage of this bill is Unconstitutional, it gives the EB the right to make law, there is no Separation of Power, there is no real accountability, and there are no Checks and Balances. Specifically, 11 U.S.C. 1109(b), and Section 5229(b) (2), are unconstitutional they give power, and rights to the United States Treasury, that under the Constitution it can not possess.

First, only Congress can possess this power, they, and only they, control the people's purse, Simple oversight has/will never suffice, the Secretary simply transmitting **his written determination** to Congress, is not fulfilling the required Separation of Power or any concrete Checks and Balances, and does not suffice for a Constitutional vote required by Congress 12 U.S.C.5202(9). See **Exhibit Z 17, Z 18. The Treasury Secretary was not elected by the people.**

Second, no simple requirement, to monthly submit a report to Congress will do, this report will simply state how the Treasury Secretary, and only the Treasury Secretary, has determined , unconstitutionally to spend the peoples money, without the required vote of Congress, 12 U.S.C. 5215 does not meet the required vote by Congress. **The Treasury Secretary was not elected by the people.**

Third, the Preparation of a report by the Congressional Oversight Panel does nothing to cure this constitutional violation, Elizabeth Warren, the head of this committee warned the U.S. Citizens: "I don't have a badge and a gun. The power of this panel is derived entirely from the voice of the American people. If they stay out of the policy debates, then Treasury can spend at will and reshape the American Economy with no one in the room but insiders." Above, I explained how the peoples voice is muffled by a minority of paid lobbyist, the people can't be heard unless the word "petition" in the **First Amendment** is defined so as to make unlawful any paid petitioner. EESA. Id. 5233(b) (1) does not suffice for the required vote by Congress. **This oversight committee was not elected by the people.**

Fourth, The EESA establishment of the Special Inspector General for the TARP, id. 5231. **This Special Inspector General was not elected by the people**, and does not satisfy the lack of a required vote, and oversight by Congress. Also see **Exhibit U**, Obama fires Inspector General Walpin.

Fifth, the EESA instituted the Financial Stability Oversight Board, to review the policies implemented by the Secretary to ensure that they are in accordance with the Act.

id.5214 (e) (1), this again is not a substitute for the Constitutional requirement of a vote by Congress, and real Congressional oversight. For all anyone knows these board members may all be free traders, who "roll" by another Constitution. **These board members were not, elected by the people.** The board members seemed to have overlooked the fact that, this 363 sale was set up from day one, with TARP money, allowing the law to be used as a tool against U.S. citizens, and clearly demanded that U.S. retirees lose the collateral of their pensions, and the other free trade goals; of lowering U.S. manufacturing workers wages, to the level of foreign automakers, and also to level U. S. manufacturing workers work rules, to that of foreign auto manufactures.

Sixth, pursuant to EESA, the Comptroller General of the United States oversees the activities and performance of TARP. He can not replace Congress and the demand of the Constitution, only Congress has this duty, and only they. Not the UST. **The Comptroller General of the United States was not elected by the people.**

Almost no, Congressman or Senator at the time they approved TARP would ever have imagined that TARP could ever be used against its own U.S. citizens, as it was in this GM sale. They never would have voted for it.

Treasury's purchase of a troubled asset, in this case GM can not impair any claims of ERISA participants. This 363 sale in fact does, it demands the tearing away of the collateral of my pension, by demanding the sale thereof, without just compensation.

First, 12 U.S.C. 5229(b) (2) does not preserve my rights in this sale of the collateral of pension, and impairs my underlying rights, claims and defenses. I am not in privity with TARP, and have not consented to any such impairment.

Second, any purchase by TARP was intended "to preserve current and future responsibility for wrong doing." But the Treasury's purchase of GM does impair my claims under ERISA. I have a pre existing right, my earned accrued pension, and the collateral of this pension the Treasury demands be sold, stripped from me, without just compensation.

Therefore, to remedy, for violations of the Constitution, 12 U.S.C. 5229(a) (2) (A) must be invoked, and all TARP money, be put back into people's purse, and Congress, must vote on each massive distribution. Every U.S. citizen is harmed when such a tyranny enters our Democratic process through Constitutional violations. No matter what Congress's intent was when they approved TARP (and the paid lobbyist addition of \$150 billion in pork), they cannot make a law as to forgo their Constitutional duties, and to give, such unchecked power to the Treasury, the Executive Branch, thus violating the **Separation of Power**, and voiding any real **Checks and Balances**.

Leave the Legislative with its duties: "to make all Laws"; "no money shall be drawn from the Treasury, but in consequence of Appropriations made by Law"; and "a regular Statement of Account of the Receipts and Expenditures of all public Money shall be published from time to time". **Article I Section(s) 8,9.**

And leave the Executive Branch with there duty; "to faithfully execute the Law".  
**Article II Section 3.**

### **The First Amendment**

Using "the argument" above I ask that the constitutionality of unfair use of paid lobbyist be addressed, that the unconstitutional beginnings of tarp be addressed, and that the **Bill of Rights** be made be made whole. Under, the **First Amendment**, no clear definition is given for "petition", that prevents paid lobbyist, from over representing themselves. Over the last thirty years in the United States, 1% of the population is seeing a massive growth in income, while 80% of the U.S. population is experiencing a drop in income. See **Exhibit(s) B part1, part 2 chart pg 5 fig. 5**. This is not by accident; the 80 % cannot afford to come to Washington, or can't take off from work. The only way they petition the government is by phone, email, or letter. They did so in huge numbers with NAFTA, GATT, and TARP, but were muffled by the paid lobbyist.

These paid lobbyist are in most cases former connected government employees, in some cases former Congressman, Senators, military officers. They have free access to the Congressman and Senators, and in many cases live in Washington, this is an uneven playing field. Thus, this small minority (1% of the population) is massively over represented. This TARP would never have passed if the people were fairly represented. Even in a candy bar contest there are clear stipulations on who can enter (printed on the wrapper). One word "petition" must be defined as one who can not receive or give money. This monopolization of representation, and thus over representation by a minority is not what the writers of the Constitution intended.

In the **Bill of Rights**, the right to vote is given in the **Fifteenth Amendment Section(s) I, II**, the **Nineteenth Amendment** and the **Twenty Fourth Amendment**. To have the right to vote infers that you will be represented, that your vote will matter. But when real legislation comes up which effect you and your family, the 80% are overruled, by these paid lobbyist, who nullify their votes. In the **Bill of Rights**, each of the rights are separate, individual rights, one was not to trample on the other. Clear evidence of this trampling of other Amendments is the income split, the 80% of the population are certainly are not voting to see their incomes fall, and, they are not voting to increase only the 1% of the populations incomes. All paid lobbying must be eliminated. Any individual being unpaid can lobby all they want, as long as no money of any fashion is used. This would once again make all the amendments function. These paid lobbyists present a clear and present danger to our Democracy, this is very clear, and it must be stopped.

The **Fifth Amendment** to the Constitution states in part: "nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation". See "The argument" above, which applies also, to this violation of the Constitution. The unconstitutional use of TARP in this sale, first

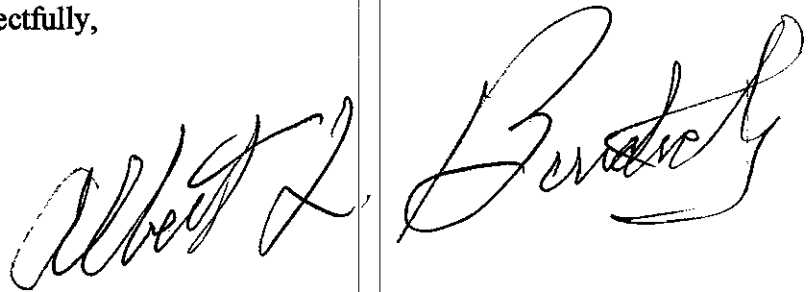
setting up the sale, then the UST demanding that the collateral of my pension be torn away, violates this First Amendment. The U.S. Treasury owns controlling interest in New GM. [pg 19, (i) Treasury will own 60.8% of New GM's common stock on an undiluted basis. It also will own \$2.1 billion of New GM Series A Preferred Stock;].

Now, because the Government owns New GM, and it is publicly owned, and the Treasury demands that the collateral of my pension be sold without just compensation, this is a clear violation of the **Fifth Amendment** and I want Just Compensation as I outlined in my original Objection.

Finally, I am not, or ever have been a member of the UAW. I would not allow a Union to represent me in these proceedings. I am filing Pro Se and ask the Court to; please hold me to less stringent standards than formal pleadings drafted by lawyers.

I ask that this appeal be passed directly to the United States Court of Appeals.

Respectfully,

A handwritten signature in black ink, appearing to read "Albert L. Brantley". The signature is written in a cursive, flowing style with a large, prominent "A" and "B".

**Footnote:**

I am filing this Pro Se and thus am not familiar with many proceedings. I received a copy of a letter from: Weil, Gotshal & Manges LLP to: Mr. J. McMahon. It suggests that all appeals in this matter are similar and should be heard by the same District Judge. My appeal is of very serious Constitutional matters and should not be "grouped together" so as to conserve judicial resources. And I request that this proposal dated August 5, 2009 be denied.